

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-4138

JACQUELINE HOYTE, IN HER ROLE AS
ADMINISTRATRIX OF THE ESTATE OF
BASIL CUFFY, DECEASED, AND IN
HER OWN RIGHT

v.

GEORGE WAGNER, WARDEN, BERKS COUNTY PRISON;
PRIMECARE MEDICAL, INC; MARYBETH JACKSON, M.D.;
COUNTY OF BERKS; BERKS COUNTY PRISON BOARD;
SECRETARY OF DEPARTMENT OF HOMELAND SECURITY*;
WILLIAM RILEY, BUREAU OF IMMIGRATION AND CUSTOMS
ENFORCEMENT LOCAL DISTRICT DIRECTOR;
JOHN DOES 1-20, BERKS COUNTY PRISON EMPLOYEES;
JOHN ROES 1-20, BUREAU OF IMMIGRATION AND CUSTOMS
ENFORCEMENT EMPLOYEES: INDIVIDUALLY AND IN THEIR
OFFICIAL CAPACITIES; THE UNITED STATES OF AMERICA

Jacqueline Hoyte,

Appellant

*(Pursuant to F.R.A.P. 43(c))

On Appeal from United States District Court
for the Eastern District of Pennsylvania
(D.C. No.: 05-cv-04437)
District Judge: Honorable Petrese B. Tucker

Submitted Under Third Circuit LAR 34.1(a)
January 5, 2009

Before: CHAGARES, HARDIMAN, *Circuit Judges* and GARBIS,* *District Judge*

(Filed: January 30, 2009)

OPINION OF THE COURT

HARDIMAN, *Circuit Judge*.

Jacqueline Hoyte, the widow of Basil Cuffy and the administratrix of his estate, appeals from an order of the District Court granting summary judgment to the United States, Berks County, the Berks County Prison Board, and Warden George Wagner in his official capacity. We will affirm.

I.

Because we write exclusively for the parties, we will recount only those facts essential to our decision.

Basil Cuffy was detained in October 2001 and held for deportation at the Berks County Prison pursuant to an intergovernmental agreement with the United States. Cuffy was classified as a criminal alien because of prior convictions for possession and trafficking of crack cocaine, trespass and menacing.

*The Honorable Marvin J. Garbis, Senior District Judge for the United States District Court for the District of Maryland, sitting by designation.

During his detention, Cuffy fell severely ill with abdominal pain and jaundice, perhaps as a result of organ failure. Cuffy was treated at the Prison until August 8, 2003, when he was transferred on an emergency basis to Reading Hospital and Medical Center. Pursuant to Berks County's standard procedures for off-site medical care, Cuffy was restrained at all times by a single handcuff attached to the rail of his bed.¹ The parties disagree regarding the tightness of the handcuff. Appellees point to testimony suggesting that Cuffy's handcuff was loose, while Cuffy's administratrix points to testimony suggesting that the handcuff left some friction marks on Cuffy's wrist.

Although Cuffy did not exert much physical activity while hospitalized, evidence in the record suggests he did get out of bed, unaided, on at least one occasion. Nevertheless, Cuffy's condition rapidly declined during his hospitalization. On August 20, 2003, after thirteen days at Reading Hospital and Medical Center, Cuffy was pronounced dead. It is undisputed that Cuffy's demise was unrelated to the handcuffing.

Hoyte sued under 42 U.S.C. § 1983, arguing that Cuffy's constitutional rights were violated because the handcuffing was excessive in light of Cuffy's non-violent nature, his non-criminal immigration detention, and his poor health. Hoyte also claimed that the handcuffing constituted negligence under the Federal Tort Claims Act and state law.

¹Section 4.3 of the Berks County procedures requires Prison guards to "[k]eep the inmates secured in handcuffs and/or leg shackles (as appropriate to the situation) at all times." Because Cuffy's legs were too swollen, Prison guards handcuffed his wrist to the bedrail.

Appellees moved for summary judgment on all claims, which was granted by the District Court.

II.

We review *de novo* the District Court's grant of summary judgment. *Watson v. Abington Twp.*, 478 F.3d 144, 155 (3d Cir. 2007). Taking the facts in the light most favorable to Hoyte, we find that summary judgment was proper.

Hoyte first argues that the District Court misconstrued her § 1983 claim as a negligence claim. This argument has some force insofar as the District Court stated that Counts III and IV "sound[] in negligence" and the analysis focused on the lack of proximate causation. Hoyte correctly argues that if a material issue of fact exists as to whether the restraint applied to Cuffy was punitive or excessive, she is entitled to a trial. *See Hubbard v. Taylor*, 399 F.3d 150, 158 (3d Cir. 2005).

Although we agree with Hoyte that the District Court apparently mischaracterized Counts III and IV as negligence claims, we find as a matter of law that the restraint applied to Cuffy was neither excessive nor punitive in violation of Cuffy's due process rights. Therefore, summary judgment was proper against Hoyte on those counts.²

We agree with the Berks County Appellees that (1) the County and Prison officials

²It is well-settled that we can affirm a district court on any basis which finds support in the record to the extent that any error that may have occurred is harmless and does not require reversal. *See Hi Tech Trans, LLC v. New Jersey*, 382 F.3d 295, 297 (3d Cir. 2004).

have a legitimate and important security interest in restraining those in their custody while they receive off-site medical care in unsecured hospitals; and (2) there is nothing wrong with the use of restraints regardless of whether the person in custody is a detainee or a convicted prisoner.

Moreover, nothing in the record suggests that the application of the policy to Cuffy was excessive or punitive in violation of our decision in *Hubbard*. Reading Hospital and Medical Center, a private facility, had no secure wards, which created a need for heightened security measures by Prison guards in supervising and restraining inmates taken to the facility. There is no evidence that Cuffy's physician or other medical personnel requested removal of Cuffy's restraint for any reason. Nor is there evidence of complaints by Cuffy concerning the restraint. Finally, the record demonstrates that the Warden received no updates as to Cuffy's deteriorating physical condition and thus had no reason to know whether the handcuff was no longer necessary. These conditions do not amount to punishment in violation of the Due Process Clause.

Hoyte's appeal is essentially a frontal attack on the Prison's policy of requiring detainees to be restrained at all times while hospitalized outside the confines of the Prison. On the facts of this case, we agree with the County that arguments for less restrictive policies regarding the treatment of detainees while hospitalized in unsecure facilities is an issue of legislative discretion rather than an issue of constitutional moment.

Hoyte further argues that the Prison's policies are illegal because they are in

“direct contravention” of the standard procedures of U.S. Immigration and Customs Enforcement (ICE). Although ICE standards require an individualized assessment of each detainee, the District Court correctly noted that the Prison’s policies required that detainees be secured at all times. Because Cuffy was in the custody of Prison officials pursuant to a contract with the United States, it is unsurprising that they followed their own procedures, instead of ICE’s standards.³ Accordingly, summary judgment was proper on Hoyte’s § 1983 claim.

III.

Hoyte next argues that the District Court erred in granting summary judgment on her negligence claim under the Federal Tort Claims Act (FTCA). To succeed on her negligence claim, Hoyte was required to establish that: (1) the defendant owed a duty to plaintiff; (2) the defendant breached that duty; and (3) the defendant’s breach of the duty was the proximate cause of an actual injury to plaintiff. *Mahler v. United States*, 196 F. Supp. 362, 364 (W.D. Pa. 1961), *aff’d*, 306 F.2d 713 (3d Cir. 1962).

Our review of the record leads to the conclusion that the District Court correctly held that no triable issue of fact existed on this claim because Hoyte failed to proffer any evidence of actual injury. It was undisputed that Cuffy’s demise was unrelated to the

³Even if the ICE standards applied to Cuffy, he would have been classified as a “Group C” inmate based on his criminal history and conduct during his detention, a classification that warrants handcuffing as a minimal restraint while receiving off-site medical care.

handcuff. Moreover, as noted previously, neither the doctors at Reading Hospital and Medical Center nor Cuffy himself complained about the handcuff or suggested that it was causing any harm. Having correctly found that Cuffy could not show actual injury, the District Court properly held that summary judgment was warranted on Hoyte's FTCA claim because she could not prove an essential element of her case.

For the foregoing reasons, we will affirm the judgment of the District Court.